

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

HOWARD K. STERN,

Plaintiff,

vs.

Case No. 1:07-CIV-8536-DC

RITA COSBY and
HACHETTE BOOK GROUP USA, INC., d/b/a
Grand Central Publishing, and
JOHN or JANE DOE,

Defendants.

**PLAINTIFF'S MOTION TO STRIKE CERTAIN EXHIBITS
FROM CONSIDERATION ON SUMMARY JUDGMENT**

COMES NOW Plaintiff Howard K. Stern ("Stern") and, pursuant to Local Rule 7.1, hereby respectfully moves this Court to strike certain exhibits from consideration on summary judgment:

I. Declaration of Rita Cosby [D.E. 82]

As set forth the in accompanying memorandum of law, this Court should strike portions of Rita Cosby's declaration because the statements expressed therein are: (1) not based on personal knowledge; (2) full of inadmissible evidence in the form of hearsay, conclusions, pure opinion, confidential source information, and character evidence; and (3) directly contradictory to her deposition testimony.

II. Declaration of Bruce Littlefield [D.E. 71]

As set forth the in accompanying memorandum of law, this Court should strike portions of Bruce Littlefield's declaration because the statements expressed therein are: (1) not based on personal knowledge; (2) full of inadmissible evidence in the form of hearsay, conclusions, pure opinion, character evidence; and (3) directly contradictory to his deposition testimony.

III. Exhibits to the Declarations of Rita Cosby, Bruce Littlefield, and Elizabeth McNamara

As set forth the in accompanying memorandum of law, this Court should strike certain transcripts of articles and interviews attached to the declarations of Rita Cosby, Bruce Littlefield, and Elizabeth McNamara. These transcripts are unauthenticated, contain inadmissible hearsay, were never turned over in discovery, and there is no evidence Cosby or Littlefield had knowledge of, or even possession of, said articles prior to the publication of *Blonde Ambition*.

For the foregoing reasons, the Court should GRANT this Motion and STRIKE the following exhibits and partial exhibits attached to Cosby's Motion for Summary Judgment:

- (i) Portions of Rita Cosby's declaration [D.E. 82];
- (ii) Portions of Bruce Littlefield's declaration [D.E. 71]; and
- (iii) The purported transcripts of newspaper articles and television programs attached as exhibits to the declarations of Rita Cosby, Bruce Littlefield, and Elizabeth McNamara.

Dated: February 11, 2009.


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